Manitoba

Annual Report 1990 - 91*

Manitoba Labour Board

*For the Fiscal Year Ended March 31, 1991

Includes 10% post-consumer waste

92-03757/

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Minister of Labour

Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

The Honourable George Johnson, M.D.,
Lieutenant-Governor of Manitoba,
235 Legislative Building,
Winnipeg, Mb.
R3C 0V8

Your Honour:

I have the honour to present to you the Annual Report of The Manitoba Labour Board covering the period from April 1, 1990, to March 31, 1991.

Sincerely yours,

Darren Praznik.

Manitoba

Labour

The Manitoba Labour Board

404 Power Building
428 Portage Avenue
Winnipeg, Manitoba, CANADA
R3C 0E2

(204) 945-3783

Honourable Darren Praznik,
Minister of Labour,
156 Legislative Building,
Winnipeg, MB.
R3C 0V8

Dear Sir:

It is my pleasure to present to you the Annual Report of The Manitoba Labour Board covering the period from April 1, 1990, to March 31, 1991.

Yours truly,

J.M.P. Korpesho,
Chairperson.

A MESSAGE FROM THE CHAIRPERSON OF

THE MANITOBA LABOUR BOARD

It is with great pleasure that I submit to you the 1990-91 Annual Report outlining the activity of the Manitoba Labour Board during the past twelve months.

As in past years, this has once again been an extremely busy year. On behalf of the Board, I wish to express my gratitude to the staff for their enthusiasm and hard work.

The Board's ability to fulfill its mandate also depends greatly on the efforts of the Vice-Chairpersons and Board Members. These are part-time appointments which take many of them away from their busy schedules in industry and labour. I would like to express my appreciation not only to the members for their contributions, but also to their employers for enabling them to donate the required time to the Board.

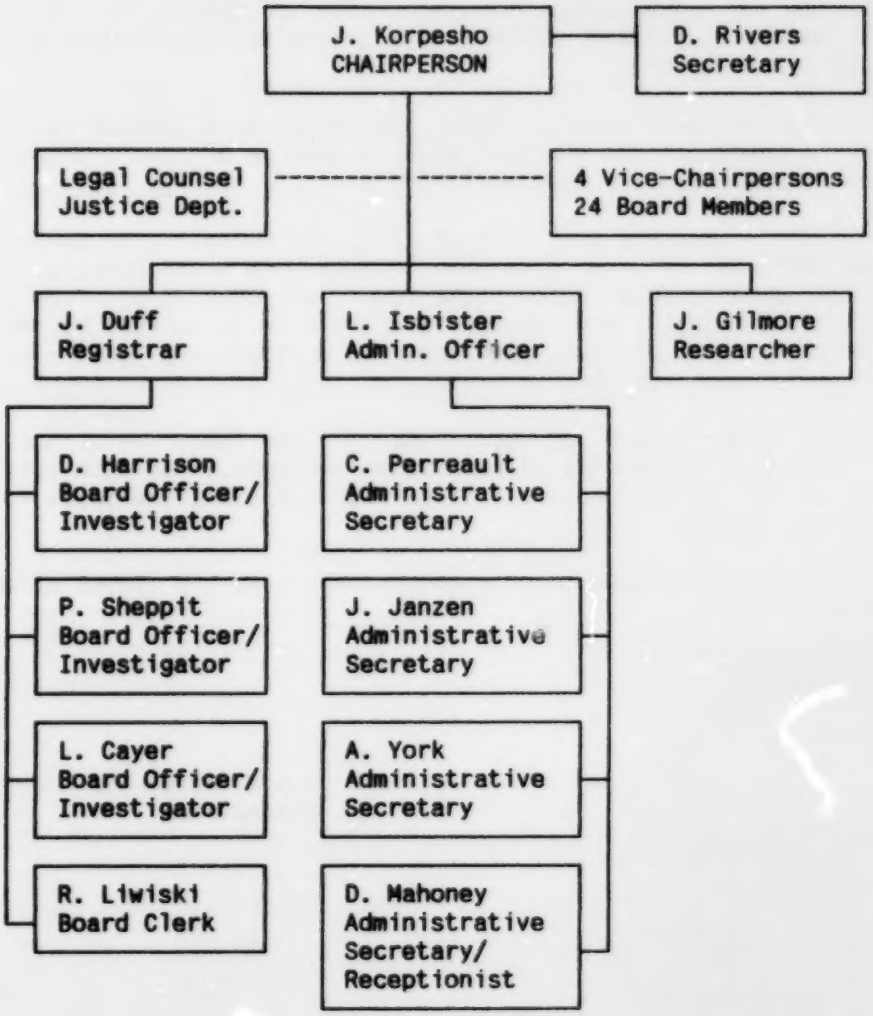
I also extend my gratitude to the labour relations community which continues to provide us with valuable feedback on such issues as the Compendium of Grievance Arbitration Decisions and the Index for Written Reasons for Decision.

We look forward to providing a continued high level of service in the upcoming year.

J.M.P. Korpesho,
Chairperson.

ORGANIZATION CHART

MANITOBA LABOUR BOARD



March 31, 1991

INTRODUCTION TO
THE MANITOBA LABOUR BOARD

ROLE:

The Manitoba Labour Board is responsible for the adjudication of matters referred under

- The Labour Relations Act,
- The Workplace Safety and Health Act, and
- The Pay Equity Act.

The Board also acts as a wages board (the adjudicating body) for matters referred under

- The Payment of Wages Act,
- The Employment Standards Act,
- The Construction Industry Wages Act,
- The Vacations With Pay Act, and
- The Remembrance Day Act.

OBJECTIVE:

The primary objective of the Board is to adjudicate on matters referred to it in a fair and reasonable manner and in a way which will be accepted by the labour/management community, as providing them with guidance in their future dealings.

The Board is responsible for the development of sound and harmonious labour/management relations by:

a) granting certification to bargaining agents who represent the majority interests of employees within specific bargaining units, and

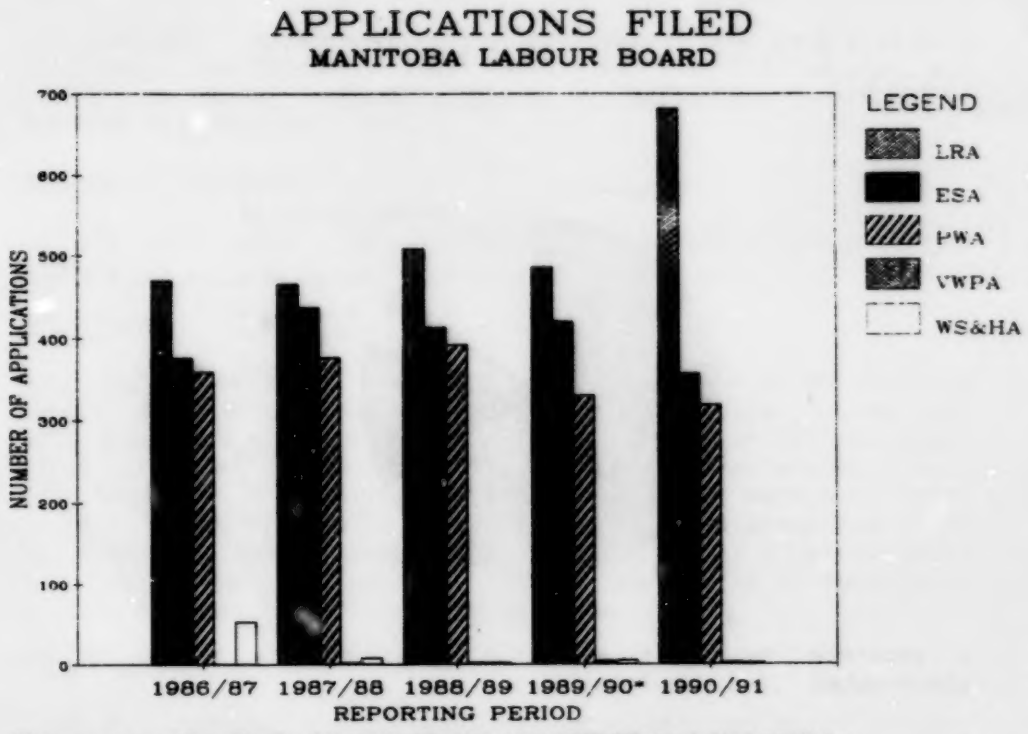
b) expeditiously handling other applications referred to the Board under The Labour Relations Act (eg. expedited arbitration, Board rulings, unfair labour practices, etc.).

The Board has the additional responsibility of adjudicating on matters referred to the Board under The Workplace Safety and Health Act and The Pay Equity Act.

The Board also has the adjudicative responsibility of dealing with referrals from the Employment Standards Division of the Department of Labour. The Board adjudicates on disputes between employees and employers filed with the Employment Standards Division, pursuant to the various Acts they administer, and subsequently referred to the Board where they have been unsuccessful in resolving the dispute.

Although the Board conducts numerous formal hearings annually, a significant portion of the Board's workload is administrative in nature. Where possible, the Board encourages the settlement of disputes in an informal manner by appointing one of its Board Officers to assist the parties in resolving outstanding issues and complaints.

SUMMARY OF ACTIVITIES



*There was one Pay Equity Act case filed in the 1989/90 reporting period

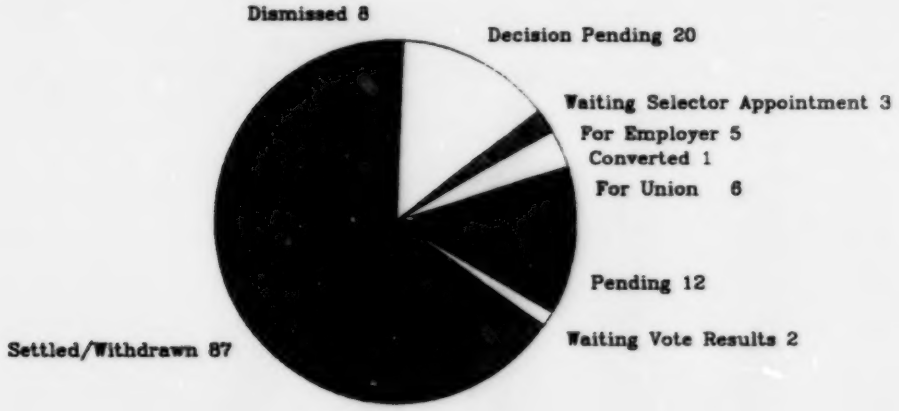
A more detailed statistical table can be found in Appendix A at the back of this report.

Expedited arbitration referrals increased/(decreased) as follows (for the period April 1st to March 31st):

1986/87	1987/88	1988/89	1989/90	1990/91
195	192	219	200	242
	(3 cases) (2% decr.)	+27 cases 14% incr.	(19 cases) (9% decr.)	+42 cases 21% incr.

Final Offer Selection was proclaimed as an amendment to The Labour Relations Act on January 1st, 1988, and repealed March 31st, 1991. During that period, 144 applications were filed with the Manitoba Labour Board. At the end of this reporting period, the status of these applications was as follows:

FINAL OFFER SELECTION
STATUS OF APPLICATIONS



A separate report is available detailing the status of the above-noted F.O.S. applications.

Also, as Reasons for Decision were developed it had been expected that the activity at the Board would decrease, however, this has not been the case. The level of workload and complexity has increased.

There appeared to be a greater awareness of Employer/Employee rights and obligations under the various pieces of legislation and controversial issues had also arisen over the past year, creating additional workload/investigations for the Board.

Summaries of significant Board decisions and court decisions can be found later in this report.

STRUCTURE

The Manitoba Labour Board is a quasi-judicial body comprised of a full-time Chairperson, four part-time Vice-Chairpersons and twenty-four Board Members. There is equal representation of employer and employee views.

Members of the Board

In the year under review, the Board consisted of the following members.

CHAIRPERSON:

John M.P. Korpesho: First appointed Chairperson of the Manitoba Labour Board in 1983 and has since been re-appointed. He has been with the Board since 1973, during which time he has held the positions of Board Officer, Registrar and Vice-Chairperson/Registrar. Mr. Korpesho is a graduate of the University of Manitoba's Certificate Program in Public Administration. He is actively involved in numerous labour management committees, and is a regular guest lecturer at both the Faculty of Law and the Faculty of Administrative Studies at the University of Manitoba.

VICE-CHAIRPERSONS:

Jack M. Chapman, Q.C.: Appointed on a part-time basis in 1989. He is a senior partner in the law firm of Taylor McCaffrey Chapman Sigurdson in Winnipeg. Mr. Chapman is a life Bencher and past President of the Law Society of Manitoba. He is a charter member of the Society of Professionals in Dispute Resolution, and is a panel member of the American Arbitration Association. He is active as a chairperson in arbitration, conciliation, and mediation in Manitoba and elsewhere, and has lectured in labour law to the Department of Economics at the University of Manitoba.

Joy M.K. Cooper: Appointed on a part-time basis in 1985, and has since been re-appointed. She holds a Bachelor of Arts degree (Honours), a Masters of Arts degree in Political Science, and a Bachelor of Laws degree from the University of Manitoba. Ms Cooper practiced law with the firms of Walsh, Micay & Co. and Cherniack Allen Cooper. She teaches Family Law at the Faculty of Law at the University of Manitoba, and is a member of the Council of the Manitoba Bar Association and Chairperson of the Canadian Bar Association's Task Force on Pensions.

Diane E. Jones: Appointed on a part-time basis in 1985 and has since been re-appointed. She holds a Bachelor of Arts degree (Honours) from the University of Winnipeg and a Bachelor of Laws degree from the University of Manitoba. Until 1984, Ms Jones practiced law with the firm of Aikins, MacAulay and Thorvaldson.

EMPLOYER REPRESENTATIVES:

Elizabeth M. Black: Appointed in 1985. She holds a Certificate from the University of Manitoba in Personnel and Industrial Relations. Ms Black has been employed in the capacity of Human Resources Manager in a variety of businesses since 1970. She has been very active in the Human Resources Management Association for many years, serving as President in 1980-81.

James R. Conner: Appointed in 1987. Now retired, he previously was in the industrial relations field with Hudson's Bay Mining and Smelting Company Limited in Flin Flon, Manitoba. Mr. Conner brings a wealth of knowledge of the mining industry to the Board.

Michael Kaufmann: Appointed in 1990. He has been involved in the electrical contracting industry since 1952. Mr. Kaufmann presently holds the position of Vice-President and General Manager of State Contractors Inc. He has held several elected positions in the construction industry, and is a past President of the Winnipeg Construction Association.

S. Jo Lopuck: Appointed in 1988. She had been self-employed in the construction industry for a number of years prior to her appointment to the Board, holding the position of Secretary-Treasurer of Modernfold (Western) 1966 Ltd. Ms Lopuck served as a Director of the Winnipeg Constuction Association from 1975 to 1986 and was awarded an honourary lifetime membership in 1988. She also has served as a Director and an Executive Director of the Canadian Construction Association.

Jack McCormick: First appointed in 1977. Before his retirement he had served as Senior Vice-President of Bristol Aerospace Ltd. Mr. McCormick's term expired December, 1990.

Carole N. Postnieks: Appointed in 1987. She is the Manager of Operations with Guertin Bros. Coatings & Sealants Ltd. Ms Postnieks has a wide range of experience in the manufacturing industry from industrial engineering through to human resources. She has acted as a resource to several organizations in such areas as pay equity, handling of dangerous materials, retraining, and continuous improvement strategies, and is currently a Member of the Minimum Wage Review Board.

William J. Ptolemy: First appointed in 1978. He had been self-employed in the construction supply business. Mr. Ptolemy has represented the Winnipeg Construction Association on the Work-place, Safety and Health Council, as well as the Manitoba Labour Board.

John D. Read: Appointed in 1987. He currently holds the positions of President of the Manitoba Hotel Association and President of the Hotel Association of Canada. Mr. Read is a member of the Manitoba Labour Management Review Committee, the Advisory Committee of the Applied Arts & Business Division of Red River Community College, the Airport Planning Consultative Committee, and the Tourism Association of Winnipeg.

Robert Sparrow: Appointed in 1983. He has an extensive knowledge of the hospitality industry having not only been President of the Manitoba Hotel Association, but also President of the Hotel Association of Canada. Mr. Sparrow's term expired December 1990.

A. Edward Stanton: Appointed in 1985. He had been employed by PRG Industries until his retirement in 1982. Mr. Stanton has served in many capacities including General Manager of Branches and has participated extensively in labour relations, having served on a number of joint labour/management study groups and government appointed labour relations committees.

Denis E. Sutton: Appointed in 1983. He has had extensive training in business administration and personnel management, and has extensive experience in labour relations in both the private and public sector. Mr. Sutton is currently employed with the Manitoba Telephone System as Vice-President, Human Resources. He has served as Chairman of the Industrial Relations Committee, Manitoba Branch, of the Canadian Manufacturers' Association, and is an active member of many labour relations committees and associations.

Raymond N. Winston: Appointed in 1987. He has extensive labour relations experience in the fashion industry. Mr. Winston currently is the Executive Director of the Manitoba Fashion Institute, Inc.

New Appointments:

Gordon Stewart: Appointed in 1991. He has been employed with Griffin Canada Inc. since 1959, and presently holds the position of Plant Manager. Mr. Stewart's previous background was in the electrical trade attaining journeyman status in 1950.

Robert Jackson: Appointed in 1991. He is actively involved in the hospitality industry and is employed as the General Manager of the Birchwood Inn.

EMPLOYEE REPRESENTATIVES:

Bernie Atamanchuk: Appointed in 1985. He became a Union Representative with the Retail Clerks' Union in 1964 while employed by Canada Safeway Limited. In 1967 Mr. Atamanchuk graduated from the Canadian Labour College. He is presently employed by the United Food & Commercial Workers, Local 832.

J. Arthur Coulter: Appointed in 1980. He has been involved in the labour movement for over 40 years in both elected and appointed positions. Mr. Coulter has served as a Member of the Manitoba Labour Management Review Committee and the Advisory Council of the Faculty of Administrative Studies of the University of Manitoba as well as many government and community boards and commissions. Mr. Coulter's term expired December 1990.

Clive Derham: Appointed in 1990. Formerly employed with the City of Winnipeg, Mr. Derham currently is employed as a Staff Representative with the Canadian Union of Public Employees, with primary emphasis being in the health care sector.

Leo Desilets: Appointed in 1985. Employed by Canadian Rogers (Western) Ltd. for a number of years, he became actively involved in the Sheet Metal Workers' International Association. In 1973, Mr. Desilets became its full-time Business Manager and Financial Secretary. As well as serving as President of the Manitoba and Winnipeg Building & Construction Trades Council, he has participated on a number of labour related boards and committees, including the Manitoba Labour Management Review Committee and the Economic Avisory Council

Brian Hunt: Appointed in 1983. He has been a member of the United Steelworkers of America since 1969, serving as an Organizer and then Staff Representative, and has been a Staff Representative of the Canadian Labour Congress. Mr. Hunt has actively participated in, and conducted, courses in all areas of labour relations.

William F. Iverson: Appointed in 1970. He received his Certificate in Masonry in 1948 and was employed by various companies until 1966. In 1967, Mr. Iverson was elected Business Manager of the Bricklayers' & Masons' Local Union, a position he held until his retirement. He has been extensively involved in labour organizations, boards, committees, and associations, serving on the Executive Boards of the Manitoba and Winnipeg Building & Construction Trades Council and the Manitoba Federation of Labour, CLC.

Doug McFarland: Appointed in 1988. He has been actively involved in labour relations and is currently employed as a Staff Representative with the Manitoba Government Employees' Association.

Hugh McMeel: First appointed in 1983. He has been involved in the labour movement for the past 35 years as a member of the United Food and Commercial Workers' International Union, and for the past 12 years, has served as its International Representative, participating extensively in negotiations and allied labour relations affairs.

Maureen Morrison: Appointed in 1983. She obtained her Bachelor of Arts degree from McGill University in 1969 and has subsequently completed several courses towards a Certificate in Labour Relations. Since 1980 Ms Morrison has been employed as a Staff Representative of the Canadian Union of Public Employees. She is a past President of the Canadian Union of Public Employees, Local 1543 (Manitoba Daycare Workers). She has also served as Chairperson of the Canadian Union of Public Employees Equal Rights and Opportunities Committee.

John E. Pullen: Appointed in 1978. He has participated extensively in a variety of labour relations organizations and associations, serving as President of the Manitoba and Winnipeg Building & Construction Trades Council (1965-72), and President of the Manitoba Federation of Labour, CLC (1984-85). Mr. Pullen has recently retired from the Manitoba Government Employees' Association as its Director of Operations.

Doreen Rosaasen: Appointed in 1990. She is a Registered Nurse by profession and has been actively involved in various nurses' associations. Ms Rosaasen is currently a Staff Representative with the Manitoba Nurses' Union.

Lorraine Sigurdson: Appointed in 1990. She is currently employed as a National Representative with the Canadian Union of Public Employees. Ms Sigurdson is actively involved in collective bargaining and providing assistance to various locals.

New Appointment:

Jan Malanowich: Appointed in 1991. She is currently employed as a staff representative for the Manitoba Government Employees' Association. Ms Malanowich is actively involved in collective bargaining and associated activities related to the needs of the membership.

OPERATIONAL OVERVIEW

The Manitoba Labour Board adjudicates on labour relations matters and is responsible for the development of its own rules of procedure and policy guidelines.

The Board also provides information and consultation to various parties to assist them in the collective bargaining process, and handling applications to the Manitoba Labour Board. The Board also investigates allegations of unfair labour practice, administers the expedited arbitration process, and assists in the development of legislation dealing with employment standards. The Board adjudicates on matters referred by the Employment Standards Division and issues subsequent Orders.

The adjudicative framework of the Board consists of a full-time Chairperson, 4 part-time Vice-Chairpersons as well as 24 Board Members who are appointed to the Manitoba Labour Board by Order-In-Council. These individuals are paid fees in accordance with the number of meetings/ hearings held throughout the year. The Board fees are the greatest single expense incurred by the Board in the performance of its objectives.

The Board conducts hearings on a variety of matters throughout the province, necessitating travel to rural centres. Costs include Board fees, transportation, accommodations and meals.

The Manitoba Labour Board support staff is comprised of two sections, namely field and administrative services.

Field Services

The Registrar is the official responsible for the supervision of the day-to-day field services of the Board. All applications filed with the Board pursuant to The Labour Relations Act are initially processed through the Registrar's office. The Registrar determines the hearing dates, assures the effective and efficient processing of each application and communicates with all parties in all matters relating to the scheduling of hearings or specific problems in the processing of any applications.

Reporting directly to the Registrar, the Board has a field staff of three Board Officers and one Board Clerk. During this reporting period there were 1,367 applications filed with the Board.

The Board Officers conduct investigations with respect to various applications filed with the Board. Board Officers are frequently appointed to act as Board Representatives in allegations of unfair labour practices, to endeavour to effect a settlement of the complaint. For this reporting period, Representatives were appointed in 50 cases, 50% of which were resolved. They also perform a variety of functions including acting as Returning Officer in Labour Board conducted votes, attending Board hearings, as well as assisting the Registrar in the processing of applications.

The Board Clerk is responsible for the day-to-day processing of all Payments of Wages/Employment Standards referrals, hours of work exemption requests and Expedited Arbitration applications.

Administrative Services

The Administrative Officer is responsible for the administrative support of the Board office including fiscal control and accountability of operational expenditures, office systems, procedures development to ensure the departmental and government policies are implemented.

The Board has an administrative support staff of five secretaries and one part-time Researcher.

During the upcoming reporting period it is anticipated that the Board will be developing an automated data retrieval system to greater assist it in providing accurate timely information.

The Board disposed of 1,247 cases during this period.

The Board extends its appreciation to all staff for their dedication and hard work during the reporting period.

MANITOBA LABOUR BOARD LIBRARY

The Board maintains a small collection of texts and journals dealing with industrial relations and labour law. Since 1985, all arbitration awards and collective agreements must be filed with the Manitoba Labour Board, copies of which may be viewed at the Board's office.

Library hours are Tuesday to Thursday, 8:30 a.m. to 4:30 p.m.

PUBLICATIONS

The Board presently publishes:

- Compendium of Grievance Arbitration Decisions - a summary of all arbitration awards rendered in the province of Manitoba and filed with the Board during the calendar year.

- Guide to The Labour Relations Act - a booklet explaining in lay persons' terms the various provisions of The Labour Relations Act, and the role of the Manitoba Labour Board and Conciliation & Mediation Services. (available in both English and French)

- Annual Report - a publication disclosing the Manitoba Labour Board's staffing and membership, as well as highlights of significant Board and court decisions, and statistical analysis of the various matters dealt with during the reporting period.

- Activities of The Manitoba Labour Board - a quarterly publication providing information and statistics on all proceedings before the Board.

- Index of Written Reasons For Decision - a report which is available for viewing at the Board's office, first issued in February 1991 and updated quarterly. It contains an index of written reasons categorized by topic, employer and section of the Act.

The Board also distributed copies of Reasons for Decision following certain Board Decisions. It should be noted that Written Reasons for Decision are an extremely important component in Orders issued by the Board and are being used extensively by the parties in a dispute and legal counsel, when preparing argument for appeals to the Courts.

The Board continued to compile and distribute "Practice Notes" dealing with the Board's past practice and procedure on specific matters.

The "Topical Index" and "Practice Notes" had long been requested by the labour relations community and are an invaluable reference resource for all interested persons, as well as for the Board itself.

The Manitoba Labour Board currently bears the cost of printing and distributing the above-noted publications.

Expenditures for the Year Ending March 31, 1991

	Actual 1990/91 $	Estimate 1990/91 SY	Estimate 1990/91 $	Variance (Under)
Salaries	467,600	12.26	475,800	(8,200)[1]
Other Expenditures	213,500		219,100	(5,600)[2]
TOTAL	681,100		694,900	(13,800)

[1]Salary surplus due to vacant position
[2]Purchase of computer equipment deferred to next year

SUMMARIES OF SIGNIFICANT BOARD DECISIONS
PURSUANT TO
THE LABOUR RELATIONS ACT

Case No. 110/89/LRA
UNITED FOOD AND COMMERCIAL WORKERS, LOCAL 330W and LABATT'S MANITOBA BREWERY

Reasons for Decision dated May 2, 1990

APPROPRIATE BARGAINING UNIT - EXCLUSIONS - EMPLOYEE - Definition - Foremen performing supervisory functions determined to be "employees" and, therefore, eligible for collective bargaining - Subsections 1 and 2(2) of The Labour Relations Act considered.

APPROPRIATE BARGAINING UNIT - EXCLUSIONS - Chief Engineer, Quality Control and Purchasing Managers performing management functions - Excluded from bargaining unit.

The Union filed an Application for Certification for a unit of employees described as, "All foremen employed by Labatt's... including all bottleshop, brewing and maintenance foremen."

The Employer contended that the foremen were not employees within the definition of The Labour Relations Act and should not be entitled to the benefits of collective bargaining. In the alternative, the Employer argued that the appropriate unit should include the positions of Purchasing Manager, Chief Engineer, and Quality Control Manager.

Held: The Board ruled that the foremen were employees as contemplated by The Labour Relations Act. Citing with approval the comments of George W. Adams, Q.C., author of Canadian Labour Law and the decision of the Canadian Labour Relations Board in Cominco, the Board held that the foremen's duties were mainly supervisory in nature as they did not exercise a great deal of independent discretion in their respective roles. As such, they were properly classified as employees. The positions of Purchasing Manager, Chief Engineer and Quality Control Manager were excluded from the bargaining unit. The Board found that persons in these classifications exercised sufficient independent judgement in the scope of their duties such that they should not be considered employees.

Case No. 1141/89/LRA
VICTORIA NURSES MONA, LOCAL 3 and VICTORIA GENERAL HOSPITAL

Reasons for Decision dated May 31, 1990

PRACTICE & PROCEDURE - EVIDENCE - Board rules that the onus was on the Employer to proceed first, even though the application was initiated by the Certified Bargaining Agent - Subsection 142(5)(a) and (d) of The Labour Relations Act considered.

At the outset of the proceedings, the Employer raised an objection to the Board's directive that the onus was on the employer to proceed first, even though the Certified Bargaining Agent initiated the application for determination of whether the classification of Nursing Unit Managers was included in the bargaining unit.

Held: The Board stated that, in similar situations, it had ruled, albeit orally, that the employer was required to proceed first in situations where the applicant was the Certified Bargaining Agent for an "all employee unit." It also cited comments made by the Canada Labour Relations Board on this issue. The CLRB stated that the burden of proof was not intended to be placed on an applicant union in a strict legal sense. The appropriateness of bargaining units was a responsibility of a board, and it was a factual matter, not a question of law. Because the pertinent facts required dealt with the organizational structure and other areas of the operation, this information was best furnished by the employer. That was why a board would call upon the employer to proceed first. In consideration of these comments and its own past practice, the Board was satisfied that the onus of satisfying the Board that a classification fell outside the scope of a previously certified "all employee unit", rested with the Employer.

Case No. 42/90/LRA
NEW DEMOCRATIC PARTY CAUCUS and THE LEGISLATIVE ASSEMBLY MANAGEMENT COMMISSION and OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, LOCAL 342

Reasons for Decision dated August 29, 1990

APPLICATION FOR CERTIFICATION - EMPLOYER - JURISDICTION - Individuals working in the offices of the Caucus were employees of the Legislative Assembly Management Commission rather than the political party - Employee/employer relationship fell outside the jurisdiction of The Labour Relations Act - Application for certification dismissed.

The Union filed an Application for Certification for a group of employees employed in the office of the New Democratic Party Caucus (N.D.P. Caucus). The Legislative Assembly Management Commission filed a Notice of Intervention to the proceedings, indicating that it was the employer. It argued that pursuant to subsections 8(1), (2) and 2(a) of The Legislative Assembly Management Commission Act, it was given the authority to appoint,

direct, and determine the pay scales and classifications of employees of the assembly offices which included offices of the official opposition and other opposition parties. It further argued that this employment relationship fell outside the jurisdiction of The Labour Relations Act and therefore the Board had no jurisdiction to hear the certification matter.

Held: The evidence showed that the Commission was given the authority under legislation to determine the number of positions to be filled, classifications to be designated to each position, funds allocated to the annual budget, and, reclassifications to be made. In addition to being paid through the Department of Finance, the respective caucuses had to seek the approval of the Commission in situations where they wanted to hire an individual at a level other than the one approved by the Commission. In consideration of the evidence, the Board ruled the the actual employer was the Commission. The N.D.P. Caucus' powers to recruit staff was not an inherent one, but flowed from those delegated to it by the Commission. Having determined that the individuals working in the Caucus office were employees of the Commission, the Board ruled that the employee-employer relationship fell outside the jurisdiction of the Board.

Case No. 352/90/LRA
THE WINNIPEG ART GALLERY and THE MANITOBA GOVERNMENT EMPLOYEES' ASSOCIATION

Reasons for Decision dated September 18, 1990

EMPLOYEE - WAGES - Part-time tour guides whose wages were funded by an external source to the Employer are still employees and are included in the bargaining unit - Sections 1 and 142(5) of The Labour Relations Act considered.

PRACTICE AND PROCEDURE - ESTOPPEL - The Association is not estopped from filing an application with the Board even though it initially filed the matter under the grievance procedure of the collective agreement.

The Employer had hired two individuals to work part time as "program assistants". Subsequently, the same individuals were also hired as part-time tour guides. For the time that they were designated as program assistants, they were paid an hourly wage as outlined in the collective agreement. For the time that they were classified as tour guides, they were paid an "honorarium" by a separate cheque with no deductions. The wages for the tour guide positions were funded through the Canada Council Exhibition Assistance Program.

When the situation came to the Association's attention, it filed a grievance under the collective agreement. However, after the

first step of the grievance procedure, the Association decided not to proceed with the grievance and elected to file an application, pursuant to subsection 142(5) of The Labour Relations Act for the Board to determine whether the individuals were employees and members of the bargaining unit when functioning as tour guides.

The Employer argued that the tour guides were not employees because they were paid an "honorarium" and were free from the degree of control usually exercised over employees. The Employer also contended that the Union should be precluded from proceeding before the Board because it had already elected to go with the grievance procedure and was bound by that choice.

Held: The Board was not of the view that the mere initial filing of a grievance estopped the Association from electing to proceed under the Act. In addition, it disagreed with the Employer's arguments as to why the tour guides were not employees. The Board stated that the issue was that the guides were being paid for work being done for the Employer. The source of the funds was irrelevant. As to the degree of freedom that the guides enjoyed, the Board held that it was no different than the positions of any part-time hourly paid employee. Therefore, the Board ruled that when the two individuals were working as paid tour guides, they were employees and were to be included in the bargaining unit.

Case No. 153/90/LRA
THE TOWN OF DAUPHIN and CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 857

Reasons for Decision dated September 24, 1990

EMPLOYEE - INDEPENDENT CONTRACTOR - EXCLUSIONS - Board determines that individual was an employee as he had very little decision making authority and basically only provided labour - Subsection 142(5) of The Labour Relations Act considered.

The Union filed an application seeking a determination pursuant to subsection 142(5) of The Labour Relations Act as to the status of the classification of the Land Fill Operator. It contended that the affected individual was an employee within the meaning of the Act and as such should be included in the bargaining unit. On the other hand, the Employer argued that the individual was an independent contractor, and therefore fell outside the scope of the certificate.

Held: Referring to its earlier decision of the term "employee" in its 1988 decision United Food & Commercial Workers, Local 111 & Gelco, the Board found that the Land Fill Operator was granted very little, if any, independent decision making authority under

his contract with the Employer, and his work was directly supervised by the general foreman on an ongoing basis. As well, he basically provided only his labour, and any additional equipment which was used in times of heavy workload belonged to the Employer and was operated by its employees.

Case No. 1143/89/LRA
BETHESDA HEALTH & SOCIAL SERVICES, INCLUDING BETHESDA PERSONAL CARE HOME INC. and BETHESDA NURSES MONA, LOCAL 101

Reasons for Decision dated October 18, 1990

APPROPRIATE BARGAINING UNIT - EXCLUSIONS - Nursing Co-ordinators excluded from bargaining unit as they were extensively involved in the hiring process - Assistant to Nursing Director excluded because she would often act for the Director - Nursing Supervisors not excluded as they perform tasks within strict guidelines.

The Union applied for a bargaining unit to include "all nurses employed at Bethesda Health and Social Services except those excluded by the Act." The Employer requested that the classifications of Assistant Director of Nursing, Nursing Co-ordinator, and Nursing Supervisors be excluded from the unit on the basis that these individuals did not fall within the definition of "employee" as described in The Labour Relations Act.

Held: The Board noted that job titles and job descriptions can be highly misleading when compared with what the nurses actually do. One must consider the broad spectrum of duties and the degree to which they are performed. Functions that are performed within strict predetermined parameters with little or no discretion are normally seen as duties of a front line supervisor. Those same functions performed by an individual who has a high degree of independent decision making authority is usually recognized as performing management functions of the highest order, as they effect the livelihood of those below them. In the case of the Nursing Co-ordinators, the Board found that in addition to the duties normally appointed to first line supervisors, they also were extensively involved in the hiring process to a degree which was more than a mere recommendation to the Director of Nursing. In assessing all of their responsibilities, the Board determined that the classification of Nursing Co-ordinator fell within the exclusionary provision of the definition of "employee." It also held that the Assistant Director of Nursing should be excluded from the unit, because she would frequently be required to act for the Director of Nursing. In contrast, the Board determined that the Nursing Supervisors' duties were similar to those of a lead hand or a first line supervisor and therefore included them in the bargaining unit.

Dissent: J.A. Coulter disagreed that the classification of Nursing Co-ordinator should be excluded from the bargainig unit, because, in his view, they were not involved in "independent decision making" as the final approval rested with the Director in all matters, even with regards to hiring.

Case No. 644/87/LRA
THE UNIVERSITY OF MANITOBA and CANADIAN UNION OF EDUCATIONAL WORKERS, LOCAL 9

Reasons for Decision dated November 30, 1990

UNFAIR LABOUR PRACTICE - DISCHARGE FOR UNION ACTIVITY - EMPLOYEE LAY-OFFS - Elimination of bargaining unit positions with non-unionized positions essentially rid the Employer of the collective agreement - Actions were anti-union - Board orders reinstatement and compensation of Teaching Assistants - Sections 5, 6, 7, 26, 62, & 82 of The Labour Relations Act considered.

DUTY TO BARGAIN IN GOOD FAITH - Union does not meet onus to prove Employer knew during negotiations that it would be laying off most of bargaining unit.

The Employer eliminated ten Teaching Assistant positions in the Anthropolgy Department. The funds were used to hire Research Assistants, positions which were not covered by any collective agreement and which were paid a lower salary. As a result of the Employer's actions, the Union filed an application with the Board alleging that the Employer had committed unfair labour practices contrary to The Labour Relations Act. The Union accused the Employer of discontinuing the Teaching Assistant positions in order to interfere with the representation of the employees by the Union. As well, the Union alleged that the Employer had failed to bargain in good faith, because it had misled the Union by neglecting to inform it of the intention to lay off a large number of people. The Employer denied any violation of the Act. It stated that its actions were a result of bona fide budgetary and academic considerations. It also maintained that the Union's complaint should have been subject to the grievance procedures of the collective agreement.

Held: The Board held that the University conducted negotiations in an open and candid manner, because, at that point, it had not made the decision to lay off the Teaching Assistants. As well, the Union was aware of the budgetary situation and should have foreseen the possibility of the lay-offs. Therefore, the Board ruled that the Union had not met the onus to prove the Employer had bargained in bad faith. However, the Board found that the Employer had violated Section 7 of the Act, because it demonstrated in this case an attitude and motivation which was effectively anti-union. By eliminating most

of the bargaining unit positions and replacing them by non-union employment, the Employer effectively rid itself of the agreement and solved its financial problems. Although the Board was of the view that a more satisfactory way of dealing with the dispute would have been through the arbitration process, the Union satisfied the Board that it had a prima facie case to be met. As the onus under Section 7 of the Act was on the Employer, the Board, in view of all the circumstnaces was not satisfied on the balance of probabilities that the Employer did not do what it did for anti-union reasons. Therefore, the Board ordered the Employer to reinstate the Teaching Assistant positions and to compensate those persons concerned.

Case No. 414/90/LRA
PERTH SERVICES LTD. AND/OR PERTHS CLEANERS LAUNDERERS AND FURRIERS LIMITED and CANANIAN ASSOCIATION OF INDUSTRIAL, MECHANICAL & ALLIED WORKERS, LOCAL 1 and A GROUP OF OBJECTING EMPLOYEES

Reasons for Decision dated March 18, 1991

APPROPRIATE BARGAINING UNIT - MEMBERSHIP EVIDENCE - PETITION OF OBJECTION - Petitions of Objection dismissed for failure to allege or substantiate Union misconduct regarding membership support - Subsections 45(4) and 47(2) of The Labour Relations Act considered.

EXCLUSIONS - INDEPENDENT CONTRACTOR - Commissioned route persons determined their own hours, were paid on commission, were self-supervised, and hired and fired their own agents - Properly excluded from the bargaining unit as they were not employees as contemplated by The Labour Relations Act.

EXCLUSIONS - Supervisor's responsibilities no less than other supervisors who were excluded from the unit - Supervisor properly excluded.

The parties requested that the Board provide reasons for its decision to issue a certificate respecting the bargaining unit comprised of Branch, Commercial and Spare Drivers except commissioned route persons, managerial and supervisory personnel and those excluded by The Labour Relations Act. Specifically, the Board dealt with three issues: the status of the Group of Objecting Employees; the evidence of membership in support of the Union; and third, the appropriateness of the unit.

Held: With regard to the status of the Objecting Employees, the Board relied on its decisions from policy developed in prior decisions. As a result, it dismissed the Petitions of Objection filed by the Objecting Employees for failure to allege or substantiate Union misconduct regarding membership evidence as

contemplated by subsections 45(4) and 47(2) of The Labour Relations Act. Therefore, the Board accepted the evidence of membership support presented by the Union. It also noted that as was the practice of the Board, the Board Officer assigned to the case cross- referenced the card signatures of employees with employee signatures on payroll records.

Respecting the exclusion of the commissioned route persons, the Board heard that they determined their own hours, were paid on commission, were self-supervised, and hired and fired their own agents. Based on the evidence, the Board held that they were not employees as contemplated by the Act. The Board also found that the duties of one supervisor, whom the Union argued should be included in the unit, were no different than those of two other supervisors whose exclusions were not contested by the Union. Therefore, the Board held that the individual was properly excluded from the unit.

Case No. 1192/90/LRA
VICTORIA GENERAL HOSPITAL and MANITOBA ASSOCIATION OF HEALTH CARE PROFESSIONALS

Reasons for Decision dated March 21, 1991

FINAL OFFER SELECTION - TIMELINESS - Based on Applicant's own letter, application for vote filed three days prior to date dispute assumed to exist - Application dismissed as being untimely - Subsection 94.1(1) and 94.1(4) of The Labour Relations Act considered.

On November 16, 1990, the Applicant Union sent a revised collective agreement to the Employer for its consideration. In a letter dated that day, it informed the Employer that unless it heard otherwise by 9:30 a.m. on November 19, 1990, it would presume that a dispute existed between the parties. Also on November 16, 1990, the Applicant filed an application for Final Offer Selection, requesting the Board to order a vote pursuant to Section 94.1(4) of The Labour Relations Act. The Employer contested the application on the basis that, as of the date of the application, a "no dispute", as referred to in subsection 94.1(1) of the Act, existed.

Held: Based on the Applicant's own letter, a dispute as contemplated by subsection 94.1(1) of the Act did not exist when the application was filed. Therefore, the Board dismissed the application as being untimely.

Case No. 512/89/LRA
HEALTH SCIENCES CENTRE and HEALTH SCIENCE CENTRE NURSES MONA, LOCAL 10

Reasons for Decision dated March 21, 1991

APPROPRIATE BARGAINING UNIT - EMPLOYEE - STATUS - To meet criteria of employment, incumbent required to maintain professional certification which required employment in the practice of nursing - Board determined that when the position was performed by a qualified nurse it fell within the Applicant's bargaining unit.

The parties requested the Board to determine whether or not the classification of Transplant Co-ordinator was included in a unit consisting of "all registered Nurses and all Licensed Practical Nurses employed by the Health Sciences Centre, excluding ... those Nurses employed in a position whose job function does not require nursing knowledge or skill." The Board heard evidence that: all the Transplant Co-ordinators, both past and present, were nurses; the job description required that the incumbent possess professional qualifications in a health care discipline or a university degree, and have experience in medical health-related disciplines or human physiology; and, job postings required, at the very least, registration with the appropriate association or licensing body.

Held: The Board noted that the profession of nursing met the criteria of being a health care discipline. As well, in order to maintain registration with the Manitoba Association of Registered Nurses, being the professional association in this case, the incumbents had to be employed in the practice of nursing. The Employer had testified that if the Transplant Co-ordinator had difficulty maintaining her certification, a letter would have been sent to the Association indicating that the exposure to patients was adequate to maintain the licence. Therefore, the Board determined that while the position of Transplant Co-ordinator was performed by a qualified nurse it fell within the scope of the bargaining unit. It further noted that when the position was held by an individual with other acceptable professional qualifications, he/she may fall within the scope of another bargaining unit.

SUMMARIES OF SIGNIFICANT BOARD DECISIONS PURSUANT TO THE PAYMENT OF WAGES ACT

Case No. 1113/89/PWA
FLANDERS DESIGN AND DEVELOPMENT INC. and JULIE IRETON

Reasons for Decision dated April 10, 1990

WAGES - Unauthorized deductions - Board determines no agreement existed allowing Employer to deduct cost of previously paid travel expenses from wages.

JURISDICTION - Board has right to deal with unauthorized deductions.

The Employee filed a claim pursuant to The Payment of Wages Act for reimbursement of unauthorized deductions from her Employer.

The Employee, who previously resided in Edmonton, testified that there had been an agreement that travel costs for an interview would be paid by the Employer if she accepted the position offered. After working for a short time she resigned, giving notice although none was required. The Employer argued that it was an implied term of the agreement that the Employee would reimburse the firm for the travel expenses paid by the firm if she left after working for only a short period. The Employer also contended that the Board had no jurisdiction to hear the case as the enabling legislation contained no specific provisions regarding unauthorized deductions of wages.

Held: The Board ruled that the deductions could not be permitted as there was no agreement, express or implied, allowing the employer to withhold wages in the case of an early departure by the Employee. The Board, while acknowledging certain limits to its jurisdictional scope, held that it was entitled to hear the case. Further, the Board stated that if the company felt it had a legitimate claim against the Employee for that debt, it should proceed to make that claim in court.

Note: Leave to appeal from the above-noted decision to the Manitoba Court of Appeal was granted in late April 1990. A date for the hearing of the appeal has not yet been determined.

Case No. 820/89/PWA
NALEWAY FOODS LTD. and BRIAN J. THOMAS

Reasons for Decision dated April 18, 1990

NOTICE - WAGES - Board finds Employment Standards Division should rectify its omission of wages in lieu of notice.

WAGES - Overtime - Employee not entitled to overtime as he was given compensatory time off, but entitled to full two weeks promised - Employee to be compensated for one week's wages and vacation pay.

While on two weeks of compensatory time off, the Employee received notice that as a result of a criminal conviction his employment was immediately terminated. He also received his last paycheque which only covered one week's pay. The Employee filed a claim with the Employment Standards Division alleging that he was discharged without notice and was owed vacation pay. The Director of Employment Standards ordered payment consisting of overtime pay and vacation pay. There was no order for pay in lieu of notice.

The Employer disputed the order and the matter was referred to the Board. The Employer maintained that, as a salaried employee, the Employee was not entitled to be paid overtime wages. As well, it argued that to account for the Employee's variable and unpredictable hours, the parties had agreed that his salary would be almost twice what an hourly paid employee would receive, and that he would be allowed compensatory time off. In addition, it submitted that the Employee was a "manager" because he was paid a salary, was not a member of the bargaining unit, and more significantly, was involved in the hiring of temporary unskilled labourers. However, evidence also showed that the Employee hired employees "only on approval" of his superiors, he regularly supervised only one helper, and he performed hands-on manual labour the majority of his time.

Held: On the balance of the evidence presented, the Board found that the Employee was an employee for the purposes of The Payment of Wages Act. On the issue of overtime, the Board stated that the mere fact that an employee was paid a salary rather than an hourly wage did not disentitle him to overtime pay. However, on the facts of this case, the Board was satisfied that the Employee was not entitled to overtime pay, because he was compensated for the extra work, and due to a lack of adequate records, the Board would have had difficulty quantifying the compensation. However, the Board did rule that since the Employer had previously agreed to pay the Employee for two weeks in compensation for his extra work, it ordered the Employer to pay the Employee one week's wages and vacation pay. As to the issue of pay in lieu of notice, the Board was satisfied that the Employment Standards Division had forgotten to include termination pay in the Order. Without deciding on the matter, the Board was satisfied that this was an error which should be rectified by the Employment Standards Division.

Case No. 343/89/PMA
GELCO EXPRESS LTD. and KELLY CHAPMAN, ET AL

Reasons for Decision dated August 29, 1990

JURISDICTION - Functions performed by the employees were primarily within provincial boundaries - Business within jurisdiction of the Manitoba Labour Board.

EMPLOYEE - DEPENDENT CONTRACTOR - Degree of control exercised over the owner/operators results in lack of independent decision making authority - Found to be dependent contractors as per definition of employee in The Employment Standards Act.

VACATION ENTITLEMENT - Period of time for calculation of entitlement to vacation wages as assessed by the Employment Standards Division in keeping with intent of The Vacations With Pay Act.

The Employer disputed an order by the Director of Employment Standards to pay wages owing to a number of individuals. It argued that because its operations were interprovincial, the matter fell within federal jurisdiction. It also argued that the owner/operators were not employees as defined in The Employment Standards Act. Finally, it raised an objection as to the time frame for the audit of vacation wages.

Held: In regards to the issue of jurisdiction, although the Employer operated in various provincial jurisdictions, the functions being performed by the individuals in question primarily related to the transfer of goods between Winnipeg and Brandon. The small portion of goods destined for out-of-province locations were conveyed by common carrier, and not by the Employer. Accordingly, the Board found that the operations fell within provincial jurisdiction.

From the evidence, the Board found that the degree of control exercised over the owner/operators resulted in a lack of any significant independent decision making authority on the part of the owner/operators. As well, all of the services performed by the owner/operators were under the auspices of the Employer, were within a timetable set by the Employer, were paid for in accordance with a rate structure predetermined by the Employer, and were under the corporate identity of the Employer. The drivers could not work for anyone else, so that the Employer was the sole source of income. Therefore, the Board ruled that the owner/operators fell within the definition of "employee" as defined in The Employment Standards Act.

As to the question of the time period of the audit, the Board upheld the time frame assessed by the Employment Standards Division. Pursuant to subsection 5(2) of The Vacations With

Act, an annual vacation entitlement is earned over a 12 month period. Once the employee has completed a year's service, the employer, as per subsection 7(3) of the Act, has a further 10 months within which the vacation was to be granted. Therefore, the employer does not contravene the intent of the Act until 22 months has elapsed. Accordingly, the commencement of an action on behalf of an employee could not begin until the period had elapsed. Therefore, the Board was satisfied that the Employment Standards policy of issuing an order for vacation wages covering a 22 month period was in keeping with the intent of the Legislature in enacting the trust provisions described in subsection 19(2) of the Act.

Case Nos. 395-404, 418/89/PMA
CAPITAL DATA INC. AND S.B. WINNING, J.D. WUCKERT, K.R. FERGUSON, R. HITESMAN, BEING DIRECTORS AND OFFICERS OF CAPITAL DATA INC. and GREGORY RICE, DONALD DUNAJSKI, CAROLINE KRUGER, ET AL

Reasons for Decision dated September 6, 1990

EMPLOYEE - "Plant Manager", who had no control and direction of, nor was responsible directly or indirectly for the engagement or employment of, or payment of wages to an employee, was an employee as per section 1 of The Payment of Wages Act.

EMPLOYEE - OFFICER/DIRECTOR - NOTICE - DISCHARGE - WAGES - Individual not a director because no company shares transferred to him, no evidence existed to prove that he was elected as a director, and administratively he was treated as an employee rather than an owner, and he had little responsibility or authority - Claim for wages and vacation wages upheld - However, claim for wages in lieu of notice denied, because Employee through poor attendance and negligence of duties effectively abandoned job.

EMPLOYEE - WAGES - Individual who performed work at the Employer's plant on own accord not an employee - Claim for wages denied.

JURISDICTION - OFFICER/DIRECTOR - RECEIVER/MANAGER - Making an order against the receiver is not a prerequisite to the enforceability of an order against the directors or officers - Claim upheld - Subsection 8(4) of The Payment of Wages Act considered.

JURISDICTION - PRACTICE & PROCEDURE - Officer of the Employment Standards Division authorized to issue an order on behalf of the Director of Employment Standards Division - Section 22 of The Payment of Wages Act considered.

JURISDICTION - WAGES - Board does not have jurisdiction to enforce payment of Employee's debt through an offset of wages and vacation wages owing.

EMPLOYEE LAY-OFFS - NOTICE - Employee given written notice of lay-off effective same day - Verbal notice given two weeks earlier inappropriate given vagueness of effective date, lack of written confirmation, and threatening comments from the Employer - Entitled to wages in lieu of notice.

OFFICER/DIRECTOR - Individual cannot accept directorship on the condition that he be excluded from liability - However, Board finds he was not a director at the relevant time as appointment was until the fiscal year end which had passed before the time period in which the claims were made - Not liable for claims.

Six individuals filed claims for wages, overtime wages, vacation wages, and wages in lieu of notice against a company which was in receivership and against four individuals named as directors and officers of the corporation. Two of the claims were not disputed.

One claim was filed by an individual who was hired as a machine operator and was later promoted to "plant manager". His last two pay cheques were withheld to make up for an overpayment of his salary. While the Employer did not dispute that wages and vacation wages may be owing, it claimed that the overpayment, which he had agreed to repay, offset any monies that may be owing to him. In any event, the Employer argued that the claim was not valid as he was not an employee as per section 1 of The Payment of Wages Act.

A second individual filed a claim for wages in lieu of notice, wages and vacation pay. The Employer disputed the claim for wages in lieu of notice because, after receiving a number of warnings, the individual was discharged for being frequently absent, late and displaying a general negligence of his duties and responsibilities. As well, the Employer claimed that the individual was a director and a manager and therefore not an employee as per the Act.

A third individual was given written notice of lay-off effective that same day. As he was never recalled, he claimed he was entitled to wages in lieu of notice as per The Employment Standards Act. The Employer claimed that he was given proper notice of the lay-off approximately two weeks earlier.

A fourth individual had filed a claim for wages and vacation wages. His claim had been dismissed by Employment Standards because no evidence was found that he was an employee and that any work performed was done so on his own accord. The Employer claimed that the individual had worked at the plant to process orders for the franchise with which he was working.

Two of the directors disputed all the Orders made against them on the basis that an order was not made against the receiver/ manager. They argued that that was a prerequisite to the enforceability of the Order against directors or officers. Counsel for the third director raised an objection to the jurisdiction of the Board because the orders were issued by an officer of Employment Standards as opposed to the Director as required in Section 22 of The Payment of Wages Act. In any event, the third director denied that he was a director or officer. He acknowledged that he had signed a resolution appointing him to the position of vice-president of operations for the balance of the fiscal year, but in an attached letter he qualified his acceptance on the condition that he be excluded from liability. As well, he stated that although he attended management meetings, he did not attend directors' meetings. However, an Annual Return filed with the Corporations Branch named him as a director. The counsel for the first two directors argued that even if the Board found that he was not a director, as an officer he was still liable as per section 5 of the Act which referred to the recovery of unpaid wages from a director or officer.

Held: The Board held that it had jurisdiction to hear the matter. It found that making an order against the receiver was not a condition precedent to jurisdiction to issue orders against the directors. As per subsection 8(4) of The Payment of Wages Act, the Director of Employment Standards had the discretion to make an order against a company in receivership, and it required the Director to "direct" any order to the receiver which had been done. In addition, the Board was satisfied that the Officer was authorized to issue orders on behalf of the Director.

The Board held that, because the order did not have to made against the receiver, then the first two directors were liable for the claims filed. As to the third director, the Board was satisfied that while his name was indicated on the Annual Return, the document was filed without his knowledge. Although he did consent to the appointment, it was only until the end of the fiscal year which had ended before the time periods to which the claims pertained. Therefore, the Board was satisfied that he was not a director or officer at the material time and was not liable for the claims.

With regards to the first claim, the Board was of the view that it did not have the jurisdiction to enforce payment of a debt by an employee through an offset. As the individual only authorized a deduction of $250 per paycheque, the Board ruled that that amount could be deducted from the wages owed to him on the basis that only one regular semi-monthly cheque was owed before his termination. With respect to his status, the Board found that the Employer did not establish that he had control and direction of, or was responsible directly or indirectly for the engagement or employment of, or payment of wages to an employee. Therefore,

the Board was satisfied that he was an employee and was owed wages.

As to the second claim, the Board was not satisfied that, although steps were taken in that direction, the individual was never made a director. No transfer of shares took place and there was no evidence that he was elected as a director. As well, he was paid a salary from which the usual statutory sums were deducted. In addition, his Record of Employment and warning letters were written from the perspective of employer to employee, rather than owner to owner. There was little evidence that he had responsibility or authority respecting hiring, promoting or discharging employees. Therefore, the Board was of the view that he was an employee within the meaning of the Act, and ordered the Employer to pay wages and vacation wages. However, his claim for wages in lieu of notice was not allowed because the Board found that by his behaviour during the last weeks of his employment, he had effectively abandoned his job.

With regards to the third claim, the Board held that the Employer had not given appropriate notice of lay-off given the vagueness about the date, the lack of written confirmation, and from the threatening comments one of the director's had made to him. While the Board accepted that the individual was less than a model employee, he was still entitled to proper notice and ordered that he be paid wages in lieu of notice.

Based on a lack of evidence, the Board denied the claim of the fourth individual. It could not find that he was an employee and therefore, he was not entitled to the wages claimed.

Case Nos. 931-934/87/PMA
HARVARD INVESTMENTS LIMITED CARRYING ON BUSINESS UNDER THE TRADE NAME AND STYLE OF THE FORT GARRY HOTEL AND J.D. PERRIN, SR., S.R. PERRIN, AND J.D. PERRIN, JR. and TRACY ADAMIK, ET AL

Reasons for Decision dated October 25, 1990

OFFICER/DIRECTOR - Definition of resignation - The resignation of the directors was effective from the time the corporation received the written resignation even though a Notice of Change of Directors was not filed within the time limits of the legislation - Therefore, they were not liable for wages owing - Sections 18, 103(2), 108(1) and 246 of The Corporations Act considered.

DUTY OF FAIR REPRESENTATION - PRACTICE AND PROCEDURE - Fundamental that Employees be represented at hearing - Ministerial approval declined to appoint counsel - Board reluctantly proceeded with hearing.

The Employer disputed an order from the Director of the Employment Standards Division for payment of wages owing and referred the matter to the Board. At issue was the liability of Mr. Perrin, Jr. and Ms. Perrin under The Payment of Wages Act. The Employer claimed that they had resigned in writing as directors and officers as of October 1986. However, a Notice of Change of Directors was not filed with the Corporations Branch until January 15, 1987, only a few days before the hotel was closed.

At the hearing, the Employees were not represented by counsel. The Board stated that it was fundamental that the Employees concerned be represented, and adjourned the matter "sine die" pending a resolution of the question of representation. Although suggested by the Board, the Minister of Labour declined to request the Minister of Justice to appoint counsel on behalf of the Employees. The Board, having concluded that it had no other means of appointing counsel for the Employees, proceeded to set a date for continuation of the hearing.

Held: The Board could not find evidence to either corroborate or contradict the Perrins' claim that they had resigned in October 1986. However, in the absence of evidence to the contrary, the Board felt it had no alternative but to accept their assertion. In the Board's view, this was an area where counsel for the Employees would have assisted in bringing the facts clearly to light. As to the effective date of the resignations, the Board noted that, as per subsection 103(2) of The Corporations Act, a resignation need not be registered with the Corporations Branch before it was effective. A resignation is effective at the time a written resignation is sent to the corporation or at the time specified in the resignation, whichever was later. However, the Board noted that subsection 108(1) stated that a Notice of Change of Directors had to be filed within 15 days after a change was made. In this case, the section of the Act was contravened. However, the Act did not indicate that a breach of this section would invalidate the resignation. In the result, the Board was of the view that it had no alternative but to dismiss the orders against J.D. Perrin, Jr. and S.R. Perrin. With respect to the order against the corporation, the Board ruled that the matter was not properly before it, because the Employment Standards Division had not brought an application before the Court in order to take proceedings against the Corporation. Accordingly, the only order issued was that against J.D. Perrin, Sr., for the full amount of wages claimed.

Case Nos. 682/90/ESA and 683/90/PWA
DIAL DATA SERVICE INC. and ERICA CAMPBELL

Reasons for Decision dated January 30, 1991

NOTICE - VACATION ENTITLEMENT - Although legislation clearly prohibits the use of vacation time to fulfill notice period, Employer's silence to Employee's request amounts to consent - Forfeiture claim denied - Subsection 7(4) of The Vacation With Pay Act considered.

WAGES - Statutory holiday pay - Employee's termination effective after general holiday - Employer's silence to Employee's request to take vacation amounts to consent so she was not absent without leave on the work day following holiday - Subsections 35(3) and 35(11)(c) of The Employment Standards Act do not apply - Employee entitled to wages for general holiday.

The Employee tendered her resignation. She proposed that she would take one week of vacation to fulfill the second week of the notice period. Her supervisor was not certain if vacation time could be used as part of her notice period. She said she would "get back" to the Employee, but she never did.

When the Employee received her final cheque, she was not paid for January 1, 1990. As a result, she filed a claim for general holiday wages owing. She claimed she was on "company approved" holidays, but was only paid for four days vacation.

The Employer disputed her claim and filed a forfeiture claim charging that the Employee had terminated employment without having given proper notice. He further argued that the Employee was not given permission to take vacation. He cited subsection 35(3) and 35(11)(c) of The Employment Standards Act, which provide that an employee is not entitled to pay for a general holiday if his employment was voluntarily terminated prior to the holiday or when he is absent without the employer's consent. The Employer also cited subsection 7(4) of The Vacation With Wages Act which prohibits using vacation time as part of any notice period.

Held: The Board found that the Employer's silence on the subject of the Employee's request for vacation could only be seen to be acquiescence. Therefore, because she had her Employer's consent, subsection 35(11)(c) did not apply. It also found that subsection 35(3) had no application to this case, because the termination was not effective until after the holiday. Therefore, the Board ruled that the Employee's claim for general holiday wages was allowed. Although subsection 7(4) clearly prevented using vacation time as notice time, the Board dismissed the Employer's forfeiture claim, because the Employee was led to believe that she had permission to use her vacation as part of her notice period.

Case Nos. 522-526/90/PWA
22190701 MANITOBA LTD. T/A FORT GARRY RESTAURANT & CATERING SERVICES AND H. BOULET, A.W. HOLT, R.P. HUOT, G. McPHEE, BEING DIRECTORS and ESSA ISSAH ABDULLA, ET AL

Reasons for Decision dated February 28, 1991

OFFICER/DIRECTOR - Board did not have discretion to relieve Directors of liability once established that wages were owing and they were directors at relevant time - Section 5 and subsections 8(7), 15(1) and 15(2) of The Payment of Wages Act considered.

PRACTICE & PROCEDURE - EVIDENCE - Onus of Proof - NSF cheque and uncashed paycheques constitute prima facie evidence of the validity of wage claim - Claims allowed even though individuals did not attend hearing.

When the Employer ceased business operations, 93 employees filed claims for unpaid wages, including vacation and overtime pay against the company and the four directors. The Employer conceded that wages were owing to the employees, but it submitted that the claims of employees who did not appear at the hearing should be dismissed, because they had failed to satisfy the onus upon them to substantiate their claims. It also argued that the Directors should not be held liable for the outstanding wages. It stated that subsection 8(7) of The Payment of Wages Act gave the Board the discretion to decline to make an order against the directors if there were extenuating or exceptional circumstances beyond the directors' control, the directors had acted in good faith, had sustained considerable personal loss and could not afford to personally pay the employees.

Held: The Board ruled that although it sympathized with the Directors, it did not have the discretion to relieve them of liability once it was established that wages were owing and that they were directors of the corporation at the relevant time as per section 5 of the Act. Further, as per subsections 15(1) and 15(2) of the Act, the Board was required to make orders in the amounts found to be owing. It stated that section 8(7) did not give the discretion which the Employer contended it did, but rather it allowed the Director of Employment Standards to make an order against a director or officer even if the Director had not previously made an order against the corporation.

In reviewing the individual claims, the Board was of the view that, where a claim was supported by documentary evidence in the form of an "NSF" cheque or uncashed paycheque, the cheque constituted prima facie evidence of the validity of the age claim. Thus, in those cases, whether or not the individual was present at the hearing, the claim was allowed. In those cases where the individual did not attend the hearing and there was not documentation before the Board which would substantiate the claim, the claim was dismissed.

SUMMARIES OF SIGNIFICANT COURT DECISIONS

GELCO EXPRESS LTD. and DOUGLAS ET AL and THE MANITOBA LABOUR BOARD and THE DIRECTOR OF EMPLOYMENT STANDARDS

Manitoba Court of Appeal
Reasons for Decision delivered October 22, 1990

The applicant Gelco Express Ltd. sought leave to appeal pursuant to subsection 16(1) of The Payment of Wages Act, from an Order of the Board requiring the payment to employees of $23,170.10 in holiday and vacation pay. Previously, the Director of Employment Standards Division had made a wages order, pursuant to the initiation of an audit, which order was then referred to the Board for hearing, and confirmed thereafter. The applicant challenged the Board's order on four grounds, namely that the Board erred in law and exceeded its jurisdiction in failing to find that the activities of the employees were an integral part of an intraprovincial work or undertaking, such that provincial wage legislation did not apply to such activities; secondly, that the Board erred in law and exceeded its jurisdiction in finding the employees to have been "employees" within the meaning of The Payment of Wages Act, The Vacation With Pay Act and The Employment Standards Act; thirdly, that the Board erred in law and exceeded its jurisdiction in awarding compensation for vacation wages and general holiday pay for all the employees (but one) insofar as they failed to testify at the hearing before the Board; fourthly, that the Board erred in law and exceeded its jurisdiction in awarding vacation wages for the employees for the period following October 11, 1986, when the financial records of the employer were only available for the period August 1, 1986 to August 8, 1988.

The presiding chambers judge first addressed the standard to be met by an applicant seeking leave to appeal from the decision of an administrative tribunal such as the Board. Leave to appeal would not be granted simply because the party was dissatisfied with the decision of the Board or was of the view that the Board came to the wrong decision. If the Board, within the confines of its jurisdiction, properly identified the issues, examined all the evidence presented, and made a determination which could reasonably be made on the evidence presented, appellant review was unwarranted whether or not the decision was viewed as correct. On the other hand, if it could be shown that the Board had acted in bad faith, applied incorrect principles to its determinations, addressed the wrong questions, breached natural justice, or erroneously assumed jurisdiction in a matter placed before it, appellant review may be invoked for a "wrong decision".

On the first ground, the Board had determined that the applicant's courier operation in Brandon was not an integral part but was in fact independent of its national, interprovincial operation. There was no merit to the argument that the decision was incorrect on the evidence submitted. On the second ground, the Board had addressed the question of control in accordance with the decision of the Court of Appeal in Hutchinson v. Imperial Taxi Brandon (1983) Ltd. (1987) 50 Man. R. (2d) 81, and determined on the evidence that the owner/operators were employees within the meaning of The Payment of Wages Act. In respect of the third ground, the learned chambers judge observed that the Court's earlier decision in Jet Roofing Ltd. v. Augustyn et al. pronounced January 22, 1990, supported the Board's determination that wages or vacation pay could be ordered although individual employees do not pursue their rights or make an appearance before the Board. On the fourth ground, the applicant did not disagree with the Board's determination that 22 months must elapse from the commencement of employment before an employer may be in contravention of The Vacations With Pay Act, but rather disagreed with the Board's calculations on the evidence presented. In noting that this was an issue not before the Board, it was considered at best a question of mixed fact and law.

In all of the circumstances, leave to appeal to the Court of Appeal was denied.

DERKSEN MECHANICAL SERVICES LTD. AND DERKSEN PLUMBING AND HEATING (RESIDENTIAL 1984) LTD. and THE MANITOBA LABOUR BOARD and THE UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA, LOCAL UNION 254

Manitoba Court of Queen's Bench
Reasons for Decision pronounced March 20, 1991

In April, 1988 the applicant Union filed an application pursuant to section 142(5) and 59 of The Labour Relations Act, seeking a Board ruling that the respondent companies were carrying on associated or related activities or businesses, and for a determination that they constituted one employer for the purposes of The Labour Relations Act, and for a declaration that the employees or any of them were to be included in a bargaining unit for which the applicant union was the duly constituted bargaining agent, and in respect of which a collective agreement for the period May 1, 1986 to April 30, 1988, between the applicant and the respondent Derksen Mechanical Services Ltd. applies.

Following a hearing, at which time the parties appeared before the Board and presented evidence and argument, the Board preliminarily ordered that the respondent companies were

associated and related activities carrying on business under common control or direction, and thus constituted one employer for the purposes of the Act. After hearing the parties on the question of relief, the Board, by further order, declared that the respondent Derksen Plumbing and Heating (Residential 1984) Ltd. was bound by the collective agreement entered into between Derksen Mechanical Services Ltd. and the applicant union for all employees engaged in plumbing and hearing activities excluding those employed on residential contracts.

The respondent companies filed an application in Court of Queen's Bench to declare the Board's order null and void, on the grounds that it was in direct contravention of the letter and spirit of The Labour Relations Act, by imposing a certified bargaining agent on employees who had not expressed any wish to be represented by a certified bargaining agent; secondly, that the order was contrary to the Act in requiring an employer to bargain with a union despite the fact that the union was not chosen by the employees to represent them; thirdly, that the order described a bargaining unit for which no authority was provided in The Labour Relations Act; fourthly, the order was contrary to the Charter of Rights and Freedoms in denying the employees their freedom of association.

In dismissing the application, the Court was not satisfied that the Board lacked jurisdiction to make its order, and was of the view that it had grounds to decline the application for review of its order. The Court was satisfied, on the basis of jurisprudence cited, that this was not a situation where the Court should purport to interfere or exercise any discretion, even if it does not agree with the way the Board approached the application for review. Any difficulties arising from the Board's formulation of the relief granted were peculiarly suited to the function of the Board, and were for it to resolve.

In the result, the application challenging the Board's order was dismissed. An appeal from the decision of the Court of Queen's Bench to the Manitoba Court of Appeal is pending.

WASAGAMACK BAND COB UNDER THE TRADE NAME AND STYLE OF WASAGAMACK CONSTRUCTORS v. KENNETH RON BOUTILLER AT AL and THE MANITOBA LABOUR BOARD and THE DIRECTOR OF EMPLOYMENT STANDARDS DIVISION

Manitoba Court of Queen's Bench
Reasons for Decision pronounced March 22, 1991

The applicant Band originally sought leave to appeal, pursuant to section 16(1) of The Payment of Wages Act, an Order of the Board requiring the Band to pay wages to employees engaged to work on the construction of a nursing station (the Board's Reasons for Decision dated June 21, 1988 are reviewed at p. 17 of the 1988-89

Annual Report). Having been unsuccessful in its challenge, pursuant to the Charter of Rights and the Indian Act, to the payment-in provisions of subsection 16(3) of The Payment of Wages Act, (Reasons for Decision of the Manitoba Court of Appeal delivered November 2, 1988 are found at p. 26-27 of the 1988-89 Annual Report), the Band subsequently discontinued its motion in the Court of Appeal and filed an application for certiorari in the Court of Queen's Bench to quash the wage order of the Board for lack of jurisdiction.

An application was brought on behalf of the Director of Employment Standards Division to strike out the application on grounds that, firstly, the Court ought not to exercise its discretion to consider the remedy in this instance and secondly, on the grounds of delay caused by the applicant.

In dismissing the application for certiorari, the Court noted that the remedy sought by the applicant was available by way of appeal to the Court of Appeal, and was already taken and then abandoned or discontinued. Noting that section 16(1) of The Payment of Wages Act provides for an appeal on questions of jurisdiction, the Court found there were no special circumstances to cause it to hear the certiorari application on its merits, because the appeal remedy provided by The Payment of Wages Act could provide the applicant with a complete answer to its challenge to the Board's Order.

On the question of delay, the Court, in view of all the circumstances, did not find that any undue prejudice had been caused to the respondents, and was therefore not prepared to strike out the application on such grounds.

In the circumstances, the application for certiorari was dismissed.

TABLE 1

STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT BY THE MANITOBA LABOUR BOARD

April 1st, 1990 - March 31st, 1991

	Cases Carried Over	Cases Filed	Total	Disposition of Cases			Number of Cases Disposed of	Number of Cases Pending
				Granted	Dismissed	Withdrawn		
Application for Certification	12	88	100	66	6	12	84	16
Application for Revocation	2	17	19	12	1	2	15	4
Application for Amended Certificate	0	121	121	120	0	0	120	1
Application re: Unfair Labour Practice	10	54	64	2	3	40	45	19
Application pursuant to Sec. 20[1]	2	7	9	1	1	4	6	3
Application for Board Ruling	13	22	35	8	2	10	20	15
Application pursuant to Sec. 87(1)[2]	1	16	17	9	0	6	15	2
Application pursuant to Sec. 10(1)[3]	1	5	6	3	0	2	5	1
Application pursuant to Sec. 10(3)[4]	1	18	19	14	3	1	18	1
Application for Reconsideration	5	8	13	1	4	5	10	3
Application for Successor Rights	1	1	2	0	0	1	1	1
Application pursuant to Sec. 76(3)[5]	0	2	2	1	0	0	1	1
Application pursuant to Sec. 22[6]	0	9	9	0	1	5	6	3
Application pursuant to Sec. 115(5)[7]	0	9	9	3	0	6	9	0
Application pursuant to Sec. 94.1[8]	9	60	69	36	3	11	50	19
Application pursuant to Sec. 21(2)[9]	0	0	0	0	0	0	0	0
Application pursuant to Sec. 53(2)[10]	0	0	0	0	0	0	0	0
Application re: appointment of Arb/Sel.[11]	0	1	1	1	0	0	1	0
Application pursuant to Sec. 143(4)[12]	0	1	1	0	0	0	0	1
Application pursuant to Sec. 44(c)[13]	0	2	2	0	0	1	1	1
Referral for Expedited Arbitration*	35	242	277	-	-	-	239	38
TOTALS	92	683	775	277	24	106	646	129

*See Table 4

Table 1 - Footnote Explanations

[1]Duty of Fair Representation
[2]First Collective Agreement
[3]When an application for certification is filed with the Board, changes in conditions of employment cannot be made without the Board's consent until the Application is disposed of.
[4]Within the first 90 days following certification of a union as a bargaining agent, strikes and lockouts are prohibited, and changes in conditions of employment cannot be made without the consent of the bargaining agent. Applications under this section are for an extension of this period of up to 90 days.
[5]Religious Objector
[6]Access Agreement
[7]Request for the Board to appoint Arbitrators
[8]Final Offer Selection
[9]Permit
[10]Employer request for Investigation
[11]Appointment of Arbitrator/Selector as per conditions of Collective Agreement
[12]Referral to Court of Appeal for determination
[13]Application to terminate collective agreement

TABLE 2

STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT
RESPECTING CERTIFICATES ISSUED

APRIL 1st, 1990 - MARCH 31st, 1991

TYPE OF CERTIFICATE ISSUED	NUMBER OF CERTIFICATES ISSUED	NUMBER OF EMPLOYEES AFFECTED
New Certificates	66	2,527

TABLE 3

STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT
RESPECTING REPRESENTATION VOTES

APRIL 1st, 1990 - MARCH 31st, 1991

TYPE OF APPLICATION INVOLVING VOTE	Number of Votes Conducted	Number of Employees Affected by Votes	Number of Pre-Hearing Votes Counted	Applications GRANTED After Vote	Applications DISMISSED After Vote	Outcome Pending
Certifications	8	306	N/A	4	4	-
Revocation	2	30	-	2	-	-
Employment Standards Act - Section 32	1	8	-	1	-	-

TABLE 4

STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT
RESPECTING REFERRALS FOR EXPEDITED ARBITRATION

APRIL 1st, 1990 - MARCH 31st, 1991

Cases Carried Over	Number of Referrals Filed	TOTAL	Number of Cases Mediator Appointed	Disposition of Cases			Number of Cases Disposed of	Number of Cases Pending
				Settled by Mediation	Settled by Parties	Settled by Arbitration		
35	242	277	200	167	25	47	239	38

TABLE 5

STATISTICS RELATING TO THE ADMINISTRATION OF THE EMPLOYMENT STANDARDS ACT

APRIL 1st, 1990 - MARCH 31st, 1991

TYPE OF CASE	Cases Carried Over	Number of Applications Filed	Total	Rulings Made	Applications Withdrawn	Not Proceeded with By Applicant	Number of Cases Disposed of	Number of Cases Pending
Applications pursuant to Section 32	17	317	334	305	10	3	318	16
Applications pursuant to Section 35	12	41	53	42	6	-	48	5

TABLE 6

STATISTICS RELATING TO THE ADMINISTRATION OF THE PAYMENT OF WAGES ACT

APRIL 1st, 1990 - MARCH 31st, 1991

TYPE OF CASE	Cases Carried Over	Number of Applications Filed	Total	Orders Issued by the Board	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
Applications pursuant to Section 8	62	319	381	198	29	227	154

TABLE 7

STATISTICS RELATING TO THE ADMINISTRATION OF THE VACATIONS WITH PAY ACT

APRIL 1st, 1990 - MARCH 31st, 1991

TYPE OF CASE	Cases Carried Over	Number of Applications Filed	Total	Orders Issued by the Board	Claims Dismissed	Claims Withdrawn	Number of Cases Disposed of	Number of Cases Pending
Plant Vacation Shutdown	0	4	4	4	0	0	4	0

TABLE 8

STATISTICS RELATING TO THE ADMINISTRATION OF THE
WORKPLACE SAFETY & HEALTH ACT
BY THE MANITOBA LABOUR BOARD

APRIL 1st, 1990 - MARCH 31st, 1991

TYPE OF CASE	Cases Carried Over	Number of Applications Filed	Total	Orders Issued	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
Application for Remedy of Alleged Discriminatory Action	1	1	2	1	1	2	0
Appeal from Director's Order	2	2	4	0	4	4	0

TABLE 9

FIRST AGREEMENT LEGISLATION
REVIEW OF CASES FILED

APRIL 1st, 1990 - MARCH 31st, 1991

	Union	Employer	Date of Application	Outcome of Application	Current Status
1.	Canadian Union of Public Employees, Local 3325	H & S School Transport Ltd.	April 9, 1990	Board imposed first collective agreement.	Expiry date: May 24, 1991.
2.	Manitoba Organization of Nurses' Associations (Manitoba Nurses' Union)	Province of Manitoba, Manitoba Health Continuing Care Program	June 13, 1990	Board imposed first collective agreement.	Expiry date: September 26, 1991.
3.	Manitoba Food & Commercial Workers, Local 832	La Residence De St-Malo, Inc.	July 10, 1990	Board imposed first collective agreement.	Expiry date: September 6, 1991.
4.	Manitoba Food & Commercial Workers, Local 832	Brandon Community Options Inc. (MLB-4382)	July 10, 1990	Parties voluntarily entered into a collective agreement.	Expiry date: March 31, 1992
5.	Manitoba Food & Commercial Workers, Local 832	Brandon Community Options Inc. (MLB-4383)	July 10, 1990	Parties voluntarily entered into a collective agreement.	Expiry date: March 31, 1992
6.	International Union of Operating Engineers, Local 901	Rural Municipality of Rosedale	August 1, 1990	Board imposed first collective agreement.	Expiry date: October 2, 1991.
7.	Manitoba Food & Commercial Workers, Local 832	Kille Enterprises Ltd., Roll'N Pin Restaurant	August 20, 1990	Board imposed first collective agreement.	Expiry date: October 18, 1991.
8.	Canadian Union of Public Employees, Local 1254	St. Vital School Division No. 6	August 23, 1990	Board imposed first collective agreement	Expiry date: December 11, 1991

TABLE 9

FIRST AGREEMENT LEGISLATION
REVIEW OF CASES FILED

APRIL 1st, 1990 - MARCH 31st, 1991

Union	Employer	Date of Application	Outcome of Application	Current Status
9. United Food & Commercial Workers, Local 111	Dunn-Rite Food Products Ltd.	August 23, 1990	Parties voluntarily entered into a collective agreement.	Expiry date: August 31, 1991
10. International Union of Operating Engineers, Local 901	Town of Beausejour	November 8, 1990	Board imposed first collective agreement	Expiry date: February 11, 1992
11. International Union of Operating Engineers, Local 901	Naaykens Transport Ltd.	November 20, 1990	Board imposed first collective agreement	Expiry date: February 6, 1992
12. Manitoba Government Employees' Association	Province of Manitoba (Community Services)	December 19, 1990	Board imposed first collective agreement	Expiry date: February 14, 1992
13. United Food & Commercial Workers, Local 832	Ikwe-Widdjiitiwin Inc.	January 2, 1991	Parties voluntarily entered into a collective agreement	Expiry date: March 31, 1993
14. Manitoba Food & Commercial Workers, Local 832	Metropol Security	January 18, 1991	Parties voluntarily entered into a collective agreement	Expiry date: December 31, 1992
15. Manitoba Food & Commercial Workers, Local 832	Inner-Tec Security Consultants Ltd.	January 18, 1991	Parties voluntarily entered into a collective agreement	Expiry date: December 31, 1992
16. United Steelworkers of America	Canadian Guide Rail Corporation	March 27, 1991	Pending	

APPENDIX A

TOTAL NUMBER OF APPLICATIONS FILED WITH THE MANITOBA LABOUR BOARD 1986-87 TO 1990-91

	1986/87	1987/88	1988/89	1989/90	1990/91
Under The Labour Relations Act	470	466	508	486	683
Under The Employment Standards Act	377	438	414	421	358
Under The Payment of Wages Act	360	377	393	331	319
Under The Vacations with Pay Act	2	3	3	5	4
Under The Pay Equity Act	-	-	-	1	0
Under The Workplace Safety & Health Act	53	9	3	6	3
TOTAL APPLICATIONS FILED:	1,262	1,293	1,331	1,250	1,367
INCREASES/(DECREASES):		31 cases 2% incr.	38 cases 3% incr.	(81 cases) (6% decr.)	117 cases 9% incr.